IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Tr.P(C).No. 135 of 2007()

OP.144/2007 of FAMILY COURT, KANNUR

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PETITIONER

DR.SHALJI SREENIVASAN, AGED 38 YEARS,
S/O C.K.SREENIVASAN, CHULLIPARAMBIL HOUSE,
THIRUVATHRA P.O., CHAVAKKKAD TALUK REPRESENTED BY
POWER OF ATTORNEY HOLDER C.K.SREENIVASAN,
AGED 66 YEARS, CHULLIPARAMBIL HOUSE,
THIRUVATHRA P.O., CHAVAKKAD TALUK.

BY ADV. SRI.P.K.SAJEEV

RESPONDENTS:

DR.SMITHA, 31 YEARS, D/O N.K.SOMANATH,
'SREYAS', NUCHALAKATH KANNOTH HOUSE,
OODENPARAMBU, NEAR NEW S.B.I. COLONY,
KAKKAD, KANNUR-2 NOW WORKING AT EAST COAST
MEDICAL CENTRE, P.O.BOX NO.10038,
KHOR FAKKAN, U.A.E.

BY ADV. SRI.K.K.JAYASOORIAN
SRI.P.M.KUNJIMOIDEENKUTTY
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SMT.SHEENA SAMUEL

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/07/2007 A/W Tr.P.C. 165/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

Tr.P.C.Nos. 135 & 165 OF 2007

Dated this the 20th July, 2007.

JUDGMENT

Tr.P.C.135/07 is filed by the husband and the other case is filed by the wife. Both of them are educated, qualified, well employed doctors outside India. But the misfortune stares at their face in the form of a matrimonial dispute. The husband wants a divorce whereas the wife wants restitution of conjugal rights. Most probably I may say it out of context that these are all cases where parties and their relatives must put their heads together and try for a re-union to have a happy life. But I leave it that. Now the question before me is to transfer which case to which court. The husband wants it at Thrissur whereas the wife wants at Kannur. Both of them are represented only through parents as they are outside India. Now it is submitted that the wife has come and she is having two children with her. It is averred that on account of the failing health of the parents and the uncle it becomes difficult for them to travel to Thrissur to conduct the case. So also is the case of the husband regarding the health of his father. One thing is certain that the case has to be tried by one and the same court otherwise there may be conflicting decisions and now the

question is which court should try it. In a case where the matter reaches the stage of trial, necessarily the parties have to come before the court to adduce evidence in support of their respective contentions. The trial may be prolonged when the parties are very sensitive and serious about the matter. So, at that stage the wife in the main petition for divorce if compelled to travel from Kannur to Thrissur certainly there will be difficulty for her and further that her children also have to be taken care of. Comparatively it is much easier for a male to travel because he need not have to get the assistance of somebody or somebody to accompany him for his travel. So, taking into consideration these broad aspects and the inconvenience to which ladies are placed in our society, I feel that the case can be tried by the court wherein the wife has filed the application for restitution of conjugal rights. Therefore HMOP 1621/06 pending before the Family Court, Thrissur is transferred to the Family Court, Kannur where HMOP 144/07 is pending for joint trial. Since both the parties are represented by the power of attorney of attorney holders at the pre-trial stage and as it is submitted that they are aged and unable to withstand frequent long journeys when applications are filed by the representative of the husband before the Family Court,

Kannur the said court is directed to consider it sympathetically and should not insist for their personal presence unless it is absolutely necessary to do so. The transfer petitions are disposed of accordingly whereby transfer of HMOP 1621/06 is ordered.

M.N.KRISHNAN
Judge

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